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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/732,695	12/08/2000	Gutman Levitan	HBK-02802/03	2885
25006	7590	04/06/2005	EXAMINER	
GIFFORD, KRASS, GROH, SPRINKLE & CITKOWSKI, P.C PO BOX 7021 TROY, MI 48007-7021			HOYE, MICHAEL W	
			ART UNIT	PAPER NUMBER
			2614	

DATE MAILED: 04/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/732,695	Applicant(s) LEVITAN ET AL.	
	Examiner Michael W. Hoye	Art Unit 2614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8 and 11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 8 and 11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 December 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

The Applicants appear to have made no new or additional arguments regarding the amendments to the claims filed on January 13, 2005 along with the Request for Continued Examination.

The Applicants' arguments previously filed on October 13, 2004 in response to the Final Office Action mailed July 13, 2004 have been fully considered but they are not persuasive.

Regarding the Applicants' previous argument that, "Rosser does not disclose...a system, including means for transmitting over a television channel the timetable file with descriptive and time/channel data relating to the commercial components of transmitted television channels...or means for transmitting a timetable file with descriptive and time/channel data, including data for the commercial settings which are stored."

In response, the Examiner respectfully disagrees with the Applicants because of the previously cited portion of the Rosser reference (col. 15, line 55 - col. 16, line 10), which discloses that a table is created remote from a user that includes data related to viewer profiles and video indicia or sequences, which are related to the commercial components of transmitted television channels, and the table or "timetable file" is transmitted over a television channel and stored in the user's device. The table as described above includes encoded data pertaining to where and when to insert video indicia or sequences, which is the equivalent of a "timetable", and the table or "timetable" is transmitted by a video distribution mechanism to a set-top device for storage, where the table is the equivalent of a "timetable file" as claimed.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 8 and 11 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Rosser (USPN 6,446,261), previously cited by the Examiner.

As to claim 8, Rosser teaches a communication system and method with demographically defined audiences for providing targeted commercials. The claimed “system for delivery of different versions of the same television program depending on viewer’s information stored viewer’s receiver” is met by Rosser with reference to Figure 4, showing a receiver system storing a demographic profile at 170. A plurality of “basic channels for transmitting primary versions of television programs containing commercials that may be replaced by alternative video fragments for producing alternative versions of those television programs” are provided via sources 134 and 136. Alternative commercials are provided over an alternative video or television feed as taught in col. 13: 13-23. Default programming and commercial alternatives are transmitted to receivers in the network which compare locally stored (170 of Fig. 4) personal profile / demographic data to select a targeted commercial for display (col. 4:31-41). The claimed “means for transmitting over a television channel to the viewer’s receiver a timetable file with descriptive and time/channel data relating to the commercial components of transmitted

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television channels” is met by Rosser (see col. 15, line 55 - col. 16, line 10), which discloses that a table is created remote from a user that includes data related to viewer profiles and video indicia or sequences, which are related to the commercial components of transmitted television channels, and the table or “timetable file” is transmitted over a television channel and stored in the user’s device. The table as described above includes encoded data pertaining to where and when to insert video indicia or sequences, which is the equivalent of a “timetable”, and the table or “timetable” is transmitted by a video distribution mechanism to a set-top device for storage, where the table is the equivalent of a “timetable file” as claimed. Once a commercial is identified as a match for the local profile, the commercial is substituted “for commercials transmitted with the program material under control of the stored profile of the viewer’s demographic information and said descriptive and time/channel data” as claimed (col. 13:37-40). These commercials are retrieved from local storage 152 and displayed to viewers as taught in col. 13:24-36.

With respect to claim 11, Rosser teaches the claimed said means for transmitting a timetable file with descriptive and time/channel data includes such data for the commercial segments which are stored in col. 15:35+ through col. 16:10, as described above, for determining when and which commercial to select for presentation to a viewer.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael W. Hoye whose telephone number is (571) 272-7346. The examiner can normally be reached on Monday to Friday from 8:30 AM to 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller, can be reached at (571) 272-7353.

Any response to this action should be mailed to:

Please address mail to be delivered by the United States Postal Service (USPS) as follows:

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Effective January 14, 2005, except correspondence for Maintenance Fee payments, Deposit Account Replenishments (see 1.25(c)(4)), and Licensing and Review (see 37 CFR 5.1(c) and 5.2(c)), please address correspondence to be delivered by other delivery services (Federal Express (Fed Ex), UPS, DHL, Laser, Action, Purolater, etc.) as follows:

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Or faxed to: (703) 872-9306


Hand-delivered responses should be brought to:

Knox Building
501 Dulany Street
Alexandria, VA 22314

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to customer service whose telephone number is (571) 272-2600.

Michael W. Hoyer
March 22, 2005


JOHN MILLER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600